

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ROBERT BAKER,)	4:14CV3051
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
LOU ANN NENEMAN, CITY OF)	
OMAHA, and BRUCE HOLCOMB,)	
M.D.,)	
)	
Defendants.)	

This matter is before the court on correspondence received from Plaintiff Robert Baker, which the court liberally construes as a motion to waive his filing fee. (Filing No. [7](#).) Plaintiff's correspondence states that he is unable to pay the \$98.35 initial partial filing fee because he earns only \$25.00 per month.

Under the Prison Litigation Reform Act, an indigent inmate who files a lawsuit in federal court must pay the \$350.00 filing fee, first by making an initial partial payment and then by sending the remainder of the fee to the court in installments. The method for collecting the filing fee from a prisoner is specifically provided for in [28 U.S.C. § 1915\(b\)](#). Section 1915(b) is written in mandatory terms ("shall"), leaving no discretion to the district court to waive an in forma pauperis prisoner's filing fee. Pursuant to [28 U.S.C. § 1915\(b\)\(1\)](#), Plaintiff must pay an initial partial filing fee in the amount of 20 percent of the greater of Plaintiff's average monthly account balance or average monthly deposits for the six months preceding the filing of the complaint.

Here, Plaintiff's trust account statement reflects that his average monthly account balance is \$491.76. Accordingly, the court determined that his initial partial filing fee was \$98.35, which is 20 percent of \$491.76. The court ordered Plaintiff to pay his initial partial filing fee by April 25, 2014. (See Filing No. [6](#).)

As set forth above, Plaintiff's payment of the \$350.00 filing fee is mandatory, and the court may not waive his payment of it. However, on the court's own motion, the court will grant Plaintiff a 30-day extension of time in which to pay his initial partial filing fee.

IT IS THEREFORE ORDERED that:

1. Plaintiff's motion to waive his filing fee (Filing No. [7](#)) is denied.
2. On the court's own motion, Plaintiff is granted a 30-day extension of time in which to pay his \$98.35 initial partial filing fee. Accordingly, Plaintiff shall pay an initial partial filing fee by May 26, 2014. If the initial partial filing fee is not received by this date, Plaintiff's case will be dismissed.
3. The clerk's office is directed to set a pro se case management deadline in this case using the following text: **May 26, 2014**: initial partial filing fee payment due.
4. The clerk's office is directed to send a copy of this order to the appropriate official at Plaintiff's institution.

DATED this 17th day of April, 2014.

BY THE COURT:

s/ John M. Gerrard
United States District Judge

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